

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED  
2007 NOV -5 AM 10:06  
CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY DEPUTY

CARLEEN BLACK,  
AND KACE WHITAKER

Plaintiffs

v.

PAN AMERICAN LABORATORIES,LLC,  
PAMLAB, LLC, SAMUEL CAMP,  
AND STEPHEN CAMP

Defendants

CIVIL ACTION NO. \_\_\_\_\_

A07CA 924LY

**DEFENDANT'S NOTICE OF REMOVAL**

Defendants file *Defendant's Notice of Removal* removing this action from the 353<sup>rd</sup> Judicial District Court of the State of Texas, Travis County, to the United States District Court for the Western District of Texas, Austin Division.

**I. THE STATE COURT ACTION**

On September 18, 2007, an action was commenced in the District Court of Travis County, Texas, 353<sup>rd</sup> Judicial District, entitled *Carleen Black and Kace Whitaker v. Pan American Laboratories, LLC, Pamlab, LLC, Samuel Camp, and Stephen Camp*, Cause No. D-1-GN-07-003101. This action arises out of Plaintiffs' employment with Defendant Pan American Laboratories, LLC, wherein Plaintiff Black alleges claims of discrimination based upon sex (female), retaliation for complaining of sex discrimination, and intentional infliction of emotional distress. Similarly, Plaintiff Whitaker alleges claims of discrimination based upon sex (male), discrimination based upon his religion, hostile-work-environment sexual harassment, retaliation for complaining of sex and/or religious discrimination and harassment, and intentional

infliction of emotional distress. Plaintiffs demanded a trial by jury. A true and correct copy of all process and pleadings in that cause, are attached as Exhibit A, as required by 28 U.S.C. §1446(a).

## **II. PARTIES AND SERVICE**

Defendants Pan American Laboratories, LLC, Pamlab, LLC, Samuel Camp, and Stephen Camp, first received the citation and petition on October 9, 2007. Therefore, this notice of removal is timely filed under 28 U.S.C. §1446(b) within 30 days of receipt of the initial pleading setting forth the claim for relief.

## **III. VENUE**

Under 28 U.S.C. §1441(a), venue of the removed action is proper in this Court as the state-court action was filed in Travis County, Texas. Thus, this Court is the district and division embracing the place where the state action is pending.

## **IV. BASIS FOR REMOVAL - FEDERAL QUESTION JURISDICTION**

Removal is proper because Plaintiffs' claims involve federal questions,<sup>1</sup> as they are made actionable by Title VII of the Civil Rights Act of 1964. Specifically, Plaintiffs' petition indicates that both Black and Whitaker seek redress for alleged violations of the anti-discrimination and anti-retaliation provisions of Title VII.<sup>2</sup> Furthermore, Plaintiffs seek attorneys' fees pursuant to 42 U.S.C. 2000e-5(k).<sup>3</sup>

With respect to Plaintiffs' Texas Labor Code discrimination claims<sup>4</sup> and intentional infliction of emotional distress claims,<sup>5</sup> if a separate or independent claim

---

<sup>1</sup> See 28 U.S.C. §§1331, 1441(b).

<sup>2</sup> See *Plaintiffs' Original Petition* at pages 12-13.

<sup>3</sup> See *Plaintiffs' Original Petition* at page 14.

<sup>4</sup> See *Plaintiffs' Original Petition* at pages 11-12.

establishing federal question jurisdiction “is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters in which State law predominates.”<sup>6</sup> Thus, supplemental jurisdiction over Plaintiffs’ state law claims is proper because such claims are so related to Plaintiffs’ federal claims that they are part of the same case or controversy under Article III of the United States Constitution, and because no state law issue predominates.<sup>7</sup> Accordingly, removal of this case to this Court on the basis of federal question jurisdiction is proper.

#### **V. NOTICE TO STATE COURT**

Defendants, the removing parties, will promptly give Plaintiffs written notice of the filing of this *Notice of Removal* as required by 28 U.S.C. §1446(d). Defendants will promptly file a copy of this *Notice of Removal* with the Clerk of the 353<sup>rd</sup> Judicial District Court of the State of Texas, Travis County, where the action is currently pending, also pursuant to 28 U.S.C. §1446(d).

#### **VI. COUNSEL OF RECORD**

The following is a list of all counsel of record:

Paul E. Hash, Esq. Attorney-in-Charge Texas Bar No. 09198020 William E. Hammel, Esq. Texas Bar No. 24036714 Jackson Lewis LLP 3811 Turtle Creek Blvd., Suite 500 Dallas, Texas 75219-4497 PH: (214) 520-2400 FX: (214) 520-2008	Delta S. Best, Esq. Attorney-in-Charge Texas Bar No. 02263900 Allison L Spruill, Esq. Texas Bar No. 00789644 Best & Spruill, P.C. 6805 N. Capital of Texas Hwy, #330 Austin, Texas 78731 Ph: (512) 257-2104 Fax: (512) 250-2058
--	--

**ATTORNEYS FOR DEFENDANT ATTORNEYS FOR PLAINTIFFS**

<sup>5</sup> See Plaintiffs’ Original Petition at page 13.

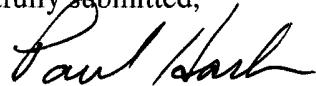
<sup>6</sup> 28 U.S.C. §1441(c).

<sup>7</sup> See 28 U.S.C. §1441(c); 28 U.S.C. §1367

**VII. PRAYER**

WHEREFORE, Defendants in this action, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. §1446, removes the case styled *Carleen Black and Kace Whitaker v. Pan American Laboratories, LLC, Pamlab, LLC, Samuel Camp, and Stephen Camp*, Cause No. D-1-GN-07-003101, from the 353<sup>rd</sup> Judicial District Court of the State of Texas, Travis County, on this 2<sup>nd</sup> day of November, 2007.

Respectfully submitted,



---

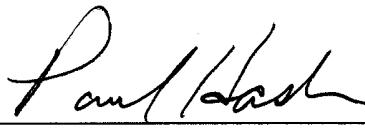
Paul E. Hash, Esq.  
Attorney-in-Charge  
Texas Bar No. 09198020  
William E. Hammel, Esq.  
Texas Bar No. 24036714  
Jackson Lewis LLP  
3811 Turtle Creek Blvd., Suite 500  
Dallas, Texas 75219-4497  
PH: (214) 520-2400  
FX: (214) 520-2008

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I certify that this *Defendant's Notice of Removal* was served on the following counsel of record, via certified mail, return receipt requested, on the 2<sup>nd</sup> day of November, 2007, as follows:

Delta S. Best, Esq.  
Allison L Spruill, Esq.  
Best & Spruill, P.C.  
6805 N. Capital of Texas Hwy, #330  
Austin, Texas 78731  
Ph: (512) 257-2104  
Fax: (512) 250-2058

  
\_\_\_\_\_  
Paul E. Hash